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Contested Sovereignty as an Opportunity: Understanding Democratic Transitions in Unrecognized States

Recent studies have demonstrated that democratic transitions can take place even in political entities that lack international sovereignty, or recognition. Based upon democratic transitions in several unrecognized states, they have argued that such process requires mainly the existence of a functioning government and basic state-institutions. Non-recognition has been at most as an incentive for governments of unrecognized states to appear democratic, in the hope of securing international legitimacy and recognition. Building upon this literature, this paper argues that non-recognition is not merely a passive factor in the democratization. Rather, it may actually play a positive role in facilitating transitions. This is because the crisis of legitimacy that results from non-recognition often leads to debates and deliberation between the unrecognized states and the international community, makes the leaderships of unrecognized states more vulnerable to scrutiny and creates opportunity structures for transnational advocacy networks. To support this argument, this article examines the democratic transition which has taken place in the Kurdistan Regional Government since its emergence as an unrecognized state in 1991. This transition, it asserts, cannot be understood without relating to the KRG's status as an unrecognized state and its pursuit of international legitimacy.

Key words: democratization; sovereignty; recognition; legitimacy; advocacy; transnationalism; liberation; Kurdistan; Iraq

Can state-building take place where no state exists? Can we discuss reforms in political entities that lack any legal status? Is democracy necessarily linked with statehood? These questions have been brought up in recent studies of democratic transitions in unrecognized states. These works have sought to challenge the tendency to associate democratization with statehood. Relying on a diverse pool of case studies, they have argued that democratic transitions can take place even without statehood, or more precisely – without international recognition.¹

This paper follows these works in challenging the association between democratization and recognition. However, it goes a step further by arguing that not only democratic transition can take place *in spite of* the absence of international recognition, but that often democratization may take place *because of* non-recognition. The crisis of legitimacy caused by non-recognition can serve as a catalyst for democratization among unrecognized states.² This is because such crisis of legitimacy usually leads to the pursuit of international legitimacy, and consequently to more interaction between the unrecognized state and the international community. This interaction, in turn, is a key to democratic transitions, as it involves exchanges of ideas, debates about the nature of statehood and constant communication.

To support this argument, this paper presents the case of the Kurdistan Regional Government in Iraq (KRG). The KRG emerged as an unrecognized state in 1991, taking control over the Kurdish populated governorates in Northern Iraq. During the first two decades of its existence, the Kurdistan Region experienced a significant, even if not linear, democratic transition. As this paper demonstrates, this process benefited from the KRG's crisis of legitimacy. Before examining the case of the KRG, it is necessary to further discuss the literature on democratization in unrecognized states, and posit the argument promoted here within this context.

International Sovereignty and Democratization: Breaking the Knot

Very few studies have investigated the link between sovereignty and democracy. Some observers have objected from outset to the possibility of democratization and liberalization in unrecognized states, claiming that separatism is usually associated with ethnic cleansing and exclusionary sentiments.³ But most commonly, Oisín

Tansey notes, this has derived from the fact that most students a priori assume that sovereignty is a precondition for democratization.⁴

Several studies have systematically challenged this predisposition in the scholarship. Based on the cases of Kosovo,⁵ Somaliland,⁶ Nagorno-Karabakh,⁷ Abkhazia, Taiwan and the Turkish Republic of Northern Cyprus (TRNC),⁸ to name a few, these works broke the Gordian knot between “statehood” and democratization. As they have demonstrated, these de facto independent entities have succeeded in democratizing their systems in spite of their failure to secure international recognition. An important foundation for these accounts has been Stephen Krasner’s thesis that sovereignty is a multifaceted institution, which can be interpreted in different ways. International recognition, or *international legal* sovereignty, is only one use of the term. *Domestic* sovereignty, namely the actor’s effective control over the territory it claims to rule, is one more dimensions. Another use of the term sovereignty is as *Westphalian* sovereignty, i.e. an actor’s right to exclude other actors from intervening in its authority structures. Finally, *interdependence* sovereignty refers to the actor’s ability to prevent other actors from crossing its territory.⁹ Unrecognized states are actors that have managed to gain domestic and interdependence sovereignty, but are deprived of international and Westphalian sovereignty. The existence of domestic sovereignty is essential, because it implies the existence of the basic infrastructure necessary for reforms, such as government and bureaucracy.¹⁰

Non-recognition, nonetheless, can in fact significantly affect the prospects of democratic transitions. This is because non-recognition necessarily translates into a crisis of legitimacy, which can lead to changes in the conduct of actors. Previous studies of democratic transitions in unrecognized states have mostly identified the crisis of legitimacy as a source of democratization. Barry Bartmann notes that crises

of legitimacy usually drive actors to orient their foreign policy toward self-justification.¹¹ Both Bartmann and Caspersen observe that unrecognized states have tended to justify their existence based on practical terms, or what Caspersen has defined as *earned sovereignty*, namely the idea that they deserve to exist and eventually be recognized based on their long-term success in running their own affairs notwithstanding non-recognition.¹²

In the post-Cold War era, when most contemporary unrecognized states emerged, democracy has become a *de facto*, and in the case of Kosovo *de jure*, precondition for recognition. As a result it has also become a central element in the unrecognized states' discourse of earned sovereignty. Most influential in this sense was the Standards before Status policy applied to Kosovo. This policy, initiated by the United Nations Mission in Kosovo, presented eight principles which the local Kosovar authorities had to meet in order for Kosovo's status and pleas for international recognition be considered. This policy has inspired other unrecognized states, such as Abkhazia, Nagorno-Karabakh and Somaliland,¹⁵ to embrace these same principles, revolving around democratization, protection of minority rights, freedom of expression and private property, and claim the right to exist and be recognized on the grounds of meeting these principles.¹⁶ This model of democratization, and especially its promotion by the United States and the European Union, has often been criticized as serving only narrow elite groups in the target countries,¹⁷ or as a form of neo-imperialism.¹⁸ However, it has gained centrality among unrecognized states in their campaign for legitimation, which makes it valid, at least for the purpose of this research.

The literature on democratization in unrecognized states has pinpointed the crisis of legitimacy as an *incentive* for unrecognized states to appear democratic, and

the causes for that. Nevertheless, the crisis of legitimacy has not only provided an incentive for democratization. Viewing non-recognition as an incentive may explain why unrecognized states aspire to appear democratic, but it cannot explain genuine democratic transitions, especially in entities that emerged in regions with only limited democratic traditions, such as the former Soviet Union, the Middle East or the Horn of Africa. As Caspersen has noted, eager to demonstrate their earned sovereignty, leaders of unrecognized states can establish façade democracies in order to “please international audiences.”¹⁹ But they do not always pay attention to domestic discontent.

The importance of the crisis of legitimacy lies in the fact that it creates the necessary conditions for democratic transitions: interaction, communicative action, and an opportunity structure for transnational actors to advocate reforms. Non-recognition and the resultant crisis of legitimacy are important because they start a process which may result in a democratic transition. Caspersen has identified the beginning of such process, noting in her analysis of democratization in the Eurasian unrecognized states that “the perception of an external pressure to create a certain kind of entity can help empower civilian leaders against warlords and may dampen willingness to challenge incumbents.”²⁰ She concludes, however, by arguing that non-recognition “does not appear to significantly affect democratization.”²¹ On the other hand, in their study Kolstø and Blakkisrud have gone as far as arguing that “non-recognition is probably the single most important factor in explaining the promotion of democracy in Nagorno-Karabakh.”²² The argument here seeks to bridge these two views on the link between the crisis of legitimacy and democratization. At least in some cases, non-recognition has positively affected political reforms in unrecognized states. On the other hand, non-recognition should not be singled out as the most

important factor in democratization, but as one which is only relevant as part of a greater mechanism, which includes popular demands for democratization, interaction and advocacy.

Non-recognition as a Catalyst for Democratization

If the crisis of legitimacy is an incentive for unrecognized states to appear democratic, then the interaction that results from this crisis carries the potential to compel unrecognized states to actually meet their rhetorical commitments. This is because interaction involves communicative action, and especially deliberation and the exchange of ideas, between the unrecognized state and various other actors about the nature of legitimacy and statehood.

Interaction has facilitated democratic transitions for two main reasons: first, because it has relied on domestic (or earned) sovereignty, which also became associated with democratization; and second, because it has facilitated transnational advocacy of reforms. Governments' commitment to democratization is not tantamount to real transitions. Even if the leaders of unrecognized states truly believe that democratization may earn them recognition, they still face constraints in the process. This is not merely due to greed or lust for power. Rather, even the desire to establish a strong and coherent entity that could face external threats may drive leaders of unrecognized states to prefer allying with local warlords and prevent internal debates.²³

Nonetheless, even if utilitarian in nature, the commitments to democratization made by the governments of unrecognized states make them more vulnerable to

criticism for failing to meet them. Opposition parties, and fledgling civil society organizations, jointly with “external” actors, may use this vulnerability to advocate domestic reforms and demand their governments to adhere to their own statements.²⁴ In other cases, transnational networks may facilitate democratization by conveying new ideas and norms. Several studies have highlighted the importance of transnational advocacy networks to the promotion of reforms and globally-held norms within norm violating actors. Networks comprising of international non-governmental organizations, international organizations (including UN agencies) and individuals, working jointly with local forces, played a strategic role in promoting freedom of expression, gendered equality and green policies.²⁵ Such advocacy networks have been successful in exploiting opportunity structures, and have developed a strategy that has turned them into powerful engines of change: putting norm-violating states on the international agenda in terms of moral consciousness-raising; empowering and legitimating the claims of domestic opposition groups against norm-violating governments, and by so partially protecting the physical integrity of such groups from government repression; and challenging norm-violating governments by creating a transnational structure pressuring such governments simultaneously “from above” and “from below,” hence minimizing options for repression.²⁶ This paper as well does not ignore the importance of other factors, and especially the need to secure domestic legitimacy, local pressures for reform and even the need of elites to settle disputes through elections. It does, however, underline the crisis of legitimacy and its pursuit as an instigating factor – one which prompts other processes and is inseparable of democratization.

This is not to argue that democratization and reforms are confined to unrecognized states. Democratization and political reforms have, of course, taken

place among well-established states, whose sovereignty is not contentious. Furthermore, in many cases these reforms were the result, at least partly, of transnational advocacy and the efforts made by coalitions of domestic and global activists. The comprehensive volume edited by Thomas Risse, Stephen Ropp and Kathryn Sikkink documents political reforms in cases as diverse as Morocco, Chile, Kenya and Guatemala, to name but a few.²⁷ Elsewhere Keck and Sikkink shed light on the pivotal role cooperation between grassroots human rights activists and international NGOs and eventually foreign governments played in the removal of human rights violating regimes in Mexico and Argentina.²⁸

Certainly, not all reforms have been the outcome of transnational advocacy; while globally-held ideas have always inspired reforms, they did not always necessitate the presence of “external” actors. But in the post-Cold War era, transnationalism has become far more visible as an element in reforms. Globalization, the influx of population and interaction between populations has made transnationalism a dominant element in processes of change.

What I do argue here is that the power of transnationalism applies as well to unrecognized states, a point which has gone generally unnoticed by students of unrecognized states. Moreover, I argue that unrecognized states may be somewhat more receptive to transnational activism than well-established states. For instance, since many of the unrecognized states have emerged out of devastating conflicts, they are bound to rely on international aid. Most of this aid is offered by international NGOs and UN agencies, although in some cases, aid may also be delivered by the unrecognized state’s patron state (the TRNC, Nagorno-Karabakh and Abkhazia and South Ossetia have relied heavily on aid from Turkey, Armenia and Russia respectively). But international aid does not always remain limited to relief-

operations.²⁹ It often comes to concern democratization and political reforms. Intervention also allows these actors to build links with both the authorities and the local populations. The existence of influential diaspora communities also contributes to openness to transnational activism. Diaspora activists usually take part in the process of state-building, and therefore serve as a central element in transnational networks.

That the absence of international sovereignty can prompt some profound democratic transitions has been noted in several studies of Taiwan. During the mid-1990s Taiwan became a *de facto* state, when its leadership (not unequivocally) renounced its claims for controlling the whole of China and stated its desire for the formation of an independent Taiwan side by side with the People's Republic of China (PRC). The first signs of democratization in Taiwan, in the shape of the 1996 democratic elections, took place in parallel to the Taiwanese government's campaign to legitimize the aspiration to establish a Taiwanese state. Whereas some have described this as a propaganda that aimed to satisfy international public opinion,³⁰ others have actually seen it as an effort by Taiwanese statesmen to build an identity distinct from that of the PRC.³¹ This, in turn, got a genuine democratic transition under way. As one close observer of Taiwanese politics has noted, "The process of democratization was at once a product and an instigator of a dynamic change to the domestic order which could not but alter the basis of Taiwan's claim to international recognition."³² Early signs of democratization drove students and intellectuals to protest and advance further reforms in the country.³³ By the mid-2000s Taiwan has become one of the more vibrant parliamentary democracies in the East Asia.³⁴ In the case of Somaliland as well, several studies have underlined the role played by members of the diaspora community in advancing democratization. While clan elders

at first resisted the attempts to undermine their authority in favour of an elected government, members of diaspora used their impact to compel the elders to relinquish some of their authority to the government.³⁵ Later, members of the diaspora began to take an active part in the democratic transition, either as advocates of democratization and gender equality,³⁶ or as candidates for political positions. Somaliland's commitments for democratization as a foundation for its recognition served these efforts as well.³⁷

To summarize the argument so far, the crisis of legitimacy which is embodied in non-recognition can be seen as a primary factor, which has the potential to instigate two important secondary factors: an incentive to democratize, and interaction which, through communicative action, might lead to democratization. Nonetheless, this does not imply that non-recognition necessarily leads to democratization. Two notable examples for unrecognized states that have failed to go through a sustainable democratic transition are Tamil Eelam and South Ossetia. Their case, though, does not invalidate the argument that the pursuit of legitimacy may drive democratic transition. This is because these two entities never really engaged in such a pursuit. Tamil Eelam remained isolated from the international community under an inherently anti-democratic movement, the Liberation Tigers of Tamil Eelam.⁴¹ And while the South Ossetian leadership did seek initially to justify its existence based on its democratic credibility, later it came to seek unification with the Russian Federation than to secure independence.⁴² Thus, in these cases legitimacy was actually absent from the equation.

Still, the deficiency of international sovereignty may indeed have negative implications over the political development of unrecognized states. According to Caspersen, one reason is that the crisis of legitimacy may give rise to a siege

mentality. Under such circumstances, the leadership may find it easier to constrain elements of democracy such as freedom of speech and freedom of movement, while the opposition might enact self-restraint for the purpose of unity. She also suggests lack of resources as another hindrance to democratization, though she notes that this applies to recognized states as well. Finally, Caspersen maintains that the long existence in a legal limbo may eventually cause unrecognized states to “run out of steam and find themselves in seemingly perpetual transition.” Thus, she concludes, non-recognition is a “double-edge sword,” providing both “impetus” and constraints for democratization.⁴³

And yet, despite this deficiency, most unrecognized states have actually experienced a long, even if far from complete, transition. Somaliland, Abkhazia, Nagorno-Karabakh, the TRNC, Taiwan, Kosovo and the KRG have all been documented to have gone democratic transitions, although at different levels. The Democratic transition in the Kurdistan Region provides us with a vivid illustration of this process.

The KRG: Unrecognized Statehood and the ‘Democratic Experiment’

The Iraqi Kurdistan Region is in fact part of “Greater Kurdistan,” as referred to by Kurdish nationalists. In spite of the implicit promises made by the Western powers to establish a Kurdish state at the end of the First World War, the area claimed by Kurdish nationalists was eventually divided between the newly founded states of Iraq, Turkey, Iran and Syria. During the interwar period Kurdish nationalists still struggled for the reunification and independence of Greater Kurdistan. Nonetheless, this struggle gradually became state-based, with local-patriot Kurdish movements now

struggling for self-determination within their states.⁴⁴ In Iraq, the Kurdish liberation campaign began in 1961, and until 1991 it took the shape of insurgency and guerrilla operations against government targets and the Iraqi army.⁴⁵

The formation of the KRG in 1991 ended the stage of insurgency. Following its defeat in the Gulf War and under the UN Security Council (UNSC) Resolution 688, the Iraqi military withdrew from the governorates of Erbil, Sulaymaniyah and Dohuk. It was soon followed by the Iraqi bureaucracy, which left an administrative vacuum in the region. This vacuum was filled almost immediately by the Kurdistan Front, the umbrella organization of the various Kurdish guerrilla movements, dominated by the Kurdistan Democratic Party (KDP) and the Patriotic Union of Kurdistan (PUK). In order to consolidate its sovereignty over the region, the Front agreed on holding regional elections, leading to the formation of a regional parliament and government.

Notwithstanding popular pressure to do so, the Kurdish leadership refrained from declaring independence. Aware of general international antagonism toward this move, the Kurdish leadership declared unanimously that it had no separatist aspirations, at least in the short term. Yet, by 1994 the KRG achieved an unprecedented level of autonomy. With its own administration, security forces and symbols of sovereignty e.g. flag, anthem and even currency, the KRG consolidated domestic sovereignty. And under the protection of the allied forces in the region, in the form of a no-fly zone, it also secured interdependence sovereignty. The KRG's hesitance to declare independence has led students of unrecognized statehood to exclude it from this category and refrain using it as a case study.⁴⁷ Nevertheless, this line of reasoning ignores the complex nature of sovereignty, and the fact that obtaining domestic sovereignty does not necessarily require legal sovereignty.

Throughout its existence the KRG has secured a wide autonomy from Baghdad in almost every field. Moreover, the Kurdish leadership has in fact implied on different occasions that the possibility of secession is always on the table.⁴⁸

The KRG's de facto secession from Iraq was denounced from the outset by its neighbours, with Ankara as the leading veto-power. This was mainly due to its fears of a spill-over effect on the Turkish Kurdish population, concentrated on the other side of Iraq's border. This crisis of legitimacy had negative implications over the KRG's survival prospects. International support for the KRG's cause was necessary in order at least to convince the allies to keep the no-fly zone.

Consequently, the KRG viewed democratization as a key to proving its earned sovereignty. The political developments of the post-Cold War era and the recognition of the new states in the Balkans and Eurasia clearly shaped the KRG's strategy. As one of the founding members of the regional parliament noted

The democratic principle has been shown to have universal validity... the IKF [Iraqi Kurdistan Front], as a de facto ruling power... intends to reconstruct Kurdish society on the basis of democracy and respect for human rights in accordance with international norms and agreements. It will demonstrate to the world that the people of Iraqi Kurdistan are capable of such self-government.⁴⁹

Subsequently, in May 1992 the Kurdish parties held elections. The elections were monitored by international organization, which described them as the "full and free expression of the wishes of the Iraqi Kurdish electorate."⁵⁰ The KDP and the PUK were the only ones to cross the 7 percent threshold set in the 1991 regional Election Law. The KDP won a slight victory, but the two parties agreed on a coalition government. The parliament's 100 seats were divided on an equal basis, and so were

the ministries. Each minister was appointed with a deputy from the other party. Five additional seats were allocated to representatives of the Christian minorities.

The relatively successful elections became a recurring motive in the KRG's legitimisation campaign. KRG representatives and sympathisers began to refer to it as the "democratic experiment" in Iraq. In an interview following the elections, Jalal Talabani, the PUK's leader, declared that "I personally believe that the elections proved that the Kurdish people... can exercise government in their region and that they deserve to enjoy the right to self-determination within a unified democratic Iraq."⁵¹ Mas'ud Barzani, the KDP's leader, declared already prior to the elections that "These elections should demonstrate to the entire world that when our people are given the chance, we can run our own affairs."⁵²

In spite of the statements, the 1992 elections in the Kurdistan Region cannot be seen as a democratic transition in itself. Not only that the process of elections is only one aspect of democracy, but the new system was essentially undemocratic. The Kurdish militias, the *Peshmerga*, remained all powerful in the region. The 7 percent threshold left most parties out of the political system. Women remained largely excluded from the process and domestic violence was ignored by the authorities. And the division of labour between the PUK and the KDP led to political stagnation, which eventually deteriorated in 1994 into a full scale civil war. This internecine war, which lasted until 1997, tore the region apart and practically impeded the state-building process. By its end, the KRG was divided into two administrations, each controlled by a different party.⁵⁴

Thus, the KRG claims were clearly utilitarian, aiming to secure domestic and international legitimacy. However, they paved the way to further transitions. This is

because the protracted crisis of legitimacy created opportunities for a wide range of external actors to take part in the process of state-building. International NGOs and aid-agencies participated in the process from its beginning, aiding the impoverished KRG. These included international NGOs, such as German Caritas, the Australian CARE, Oxfam, Save the Children, and Christian Aid; UN agencies such as the UN High Commission for Refugees; and governmental aid agencies, such as the US Agency for International Development (USAID) and the British Overseas Development Administration. They orchestrated projects such as the resettlement of refugees and internally displaced people, recovering of destroyed infrastructure. They also opened schools, trained teachers and paid their salaries. Some forms of international aid survived even during the civil war. This was the case of the Oil for Food Program (OFFP), initiated by the UNSC as a way of providing the Iraqi population with its basic needs without violating the 1991 economic sanctions on Iraq. This aid was the KRG's only connection with the outside world. It therefore established a tradition of interaction between the KRG and international aid organizations. Whereas other states in the region have often treated NGOs with some suspicion, blaming them for serving as agents of foreign governments, the KRG could not make such claims due to its early encounters with aid organization. And as Denise Natali demonstrates, primary aid-relief operations paved the way for the introduction of new norms.⁵⁵ For example, the OFFP allowed the return of UN agencies to the Kurdistan Region, such as the UN Educational, Scientific and Cultural Organization (UNESCO). These agencies used the newly available resources to engage with the KRG. According to Natali,

They taught principles of good governance, negotiation, and administration by conducting regular meetings with KRG representatives and incorporating local personnel into legitimate bodies. KRG representatives and local populations

were liaised with the UN and gained professional experience and language skills, while learning about the policies and protocols of international organizations.⁵⁶

Consequently, the OFFP constituted another step toward the change in the nature of aid to the Kurdistan Region, and to the prospects of democratic transition.

The rapidly expanding role of these so-called “external” actors such as NGOs and aid-relief agencies, and their evolving function, cannot be understood simply as external intervention. While certainly pivotal to the process of reforms, neither their intervention nor their impact could be understood independently of the other parties involved. Thus, it was the KRG’s dire need for help, but also its willingness to demonstrate its cooperative nature, which eased the flow of NGOs and aid agencies to the region. On the other hand, external actors’ main impact was carried through their interaction with local activists and NGOs.

Even if the KRG was not initially devoted to democratization, its utilitarian commitments eventually made it easier for the network to target its decision-makers. This became evident especially in the post-2003 era. The seeds of democratization, sown during the early 1990s, grew more during the period between 2003 and 2011. As the KRG reunited and further established its sovereignty and strengthened its interaction with various members of the international community, so as its need to legitimize its existence has intensified.

Transition in the Post-2003 KRG: Renewed Crisis and Further Democratization

The Anglo-American invasion of Iraq and the overthrow of the Ba’th regime re-boosted the consolidation of the KRG’s domestic sovereignty. Post-invasion Iraq

collapsed into a bloody chaos, in which sectarian violence tore the country apart. Increasing insurgency rendered the central government unable to extend even the most basic services to most parts of the country. The removal of Saddam Hussein meant the (temporary) elimination of the constant threat of a Baghdad-initiated attack on the region. The Kurdish parties' support of the invasion meant closer relations with the coalition forces.⁵⁷ And the Kurdistan Region's over a decade-long isolation from the rest of Iraq helped the KRG in keeping it out of the raging violence in the rest of the country. Finally, shortly prior to the invasion the divided administrations began negotiation reunification, which was mostly completed in 2005.

In addition, the Kurds made some important political gains in the negotiations over a new order in Iraq. The PUK and KDP, together with smaller Kurdish parties, ran in a joint list, the Kurdistan Alliance, in the parliamentary elections in December 2005, in which it won 53 out of 275 seats. This provided the Kurdish leadership with leverage over the winning Da'wa Party, led by Nouri al-Maliki in the negotiations over the building of the coalition. Through these negotiations, the KRG secured a constitutional recognition as a regional government in federal Iraq; regional control over newly discovered oil reserves; a promise to conduct a referendum over disputed territories in the Kirkuk governorate; and the appointment of Kurds to key positions in the federal government, including the nomination of Talabani as President of the Republic.

In short, then, the KRG came out of the war stronger than ever. Sensing the coming protest, the Kurdish leadership once again committed to Iraq's territorial integrity, publicly renouncing any aspiration for independence or desire to establish Greater Kurdistan. Yet, this did not pacify Ankara's fears. The Justice and Development Party (known for its Turkish acronym AKP)-led government launched a

multifaceted campaign against the idea of Kurdish autonomy. Its actions included sending Turkish peacekeeping forces to the contested territories, especially those populated by Turkomans (Turkish-speaking minority); constant allegations against the KRG for sheltering the Turkish Kurdistan Workers Party (PKK);⁵⁸ and even assassination attempts against Kurdish officials in the contested territories.⁵⁹ In addition, Ankara began pressuring the allies into limiting Kurdish autonomy. This pressure yielded some results. In one instance, L. Paul Bremer, the Administrator of the Coalition Provisional Authority of Iraq (CPA), and Lieutenant General David Petraeus, the Commander of the Multi-national Security Transition Command Iraq, demanded that the Kurdish parties would remove the KRG flags from buildings in the region and wave the Iraqi flag instead.⁶⁰

Facing this crisis of legitimacy, the reunified KRG renewed its endeavour to legitimize its existence and sovereignty. As in the early 1990s, the KRG resorted to portray itself as adherent to global democratic norms. The reunification of the KRG was marked with general elections for the presidency of the region and the regional parliament. The Kurdistan Alliance ran in the regional elections as well and won more than 90 percent of the seats in the parliament, with the KDP's leader Mas'ud Barzani elected as president.⁶¹ 11 seats were reserved for representatives of the Christian minority. The minimum quota for women representatives rose from 25 percent (as set in 1992) to 30 percent – as part of the KRG's effort to overshadow the decision of the Iraqi Council of Representatives to set a 25 percent quota.

As in 1992, the Kurdish leadership celebrated the election campaign as a proof of Kurdish earned sovereignty. The KRG began issuing pamphlets describing itself as 'the other Iraq' and as an oasis of stability, prosperity and tolerance, or as 'a committed force for freedom and democracy in a part of the world that desperately

needs it'.⁶² And amid the persecution and targeting of Christians in the rest of Iraq, official Kurdish media outlets revelled in the KRG's protection of Christian minorities in the region.⁶³ And as in 1992, the 2005 democratization was limited. The formation of a coalition with more than 90 percent of the MPs put to question the Kurdish leadership's sincerity with regard to parliamentary democracy. Gender-based violence remained endemic in the region and figures of honour-killings soared. Prisoners, and particularly suspected Islamists, were maltreated and journalists associated with the opposition were persecuted by the local security forces.⁶⁴ And while the KRG took pride in protecting and integrating minorities in the political system, non-Kurdish minorities in the contested territories in the Kirkuk and Ninawa provinces claimed to be persecuted by the Kurdish authorities.⁶⁵ Nevertheless, democratization remained the main framework within which the KRG manifested its right to sovereignty.

In parallel, the post-2003 Kurdistan Region witnessed a dramatic increase in the activities of international NGOs and aid agencies in the region. After the fall of the Ba'th regime, and with the CPA's encouragement, an extraordinary number of international NGOs flowed to the country in order to take part in the process of post-conflict reconstruction. With the deterioration of political instability in Iraq into full scale violence, many of these NGOs were forced to limit their operations to the relatively peaceful Kurdistan Region.⁶⁶ They were soon joined by the United Nations Assistance Mission in Iraq (UNAMI), which was established in summer 2003, as part of international community's effort to join the allied forces in rebuilding Iraq. UNAMI's mission was not limited to providing material support. Rather, its activities now focused also on capacity-building and introduction of standards of good governance to the Iraqi and Kurdish authorities.⁶⁷ The importance of UNAMI's

intervention was that rather soon it began to distinguish between Baghdad and the KRG, treating the latter independently. It thus bolstered the KRG's sense of autonomy and sovereignty.

Members of the Kurdish diaspora, viewing the KRG as the embodiment of Kurdish sovereignty, have been highly visible in this transnational activism.⁶⁸ Inspired by their experiences in the West and their exposure to Western norms of governance, they became advocates of the same values in the region.⁶⁹ Gradually, these actors joined in creating a transnational network of activists in the Kurdistan Region. In contrast to the early 1990s, in 2005 these transnational networks could now hold the KRG accountable to its failures to meet the statements and commitments made by its leaders. Some of them began documenting the KRG's violations of democratic norms.⁷⁰ Others began leading local campaigns for reforms.

Examples for changes driven by transnational activism are numerous. In one such example, a Sulaymaniyah-based NGO, the *Kurdish Institute for Elections* (KIE), used financial support provided by American NGOs such as the International Republican Institute (IRI), National Democratic Institute and the National Endowment for Democracy to organize pre-elections seminars before the 2009 elections. In these seminars "The scope of the discussions reached to that range of talking about violations of human rights by the political power, lack of social equality and equity, lack of services, lack of individual freedom and other public problems in the society."⁷¹ In another instance, the KIE joined other local and international NGOs, such as the German WADI Foundation and the American Civil Society Initiatives, to campaign for the introduction of a draft law for organizing rallies and demonstrations in the Kurdistan Region. This inspired a bill, which was submitted by 23 MPs to the regional parliament and was passed in October 2010. It was the first instance of legal

regulation of public protest in the Kurdistan Region since the formation of the KRG.⁷² In another example, a local youth movement named *Ayinda* (future), funded and sponsored by American NGOs such as IRI, successfully advocated the lowering of the minimum age of candidacy in the Kurdish elections from 30 to 25 in the 2009 elections. As reported in the aftermath of the campaign,

Following that success, Aynda helped train young candidates running for parliament in that election, and in large part due to the Center's efforts, today four percent of the Kurdish Region's parliament is under the age of 30. These youth representatives would not hold their seats without the efforts of the Aynda Center.⁷³

The 2009 elections, which followed a long period of popular and transnational activism, witnessed a dramatic transition in the Kurdistan Region. For the first time, an opposition list managed to cross the threshold. The *Gorran* (Change) List, which is comprised mostly of PUK dissidents, won 23.5% percent of the votes. For the first time in the KRG's history, the government faced a substantial opposition bloc. Although initially dismayed by the new development, the Kurdistan Alliance embraced the results and used them to highlight the KRG's democratic nature. Qubad Talabani, the KRG's representative to Washington stated in front of an audience at the Washington-based Middle East Institute that "We were challenged by some to achieve the 'gold standard' in elections. We accepted that challenge – and we delivered. We have achieved much in our experiment in democratic self governance..."⁷⁴ Thus, he acknowledged the constant pressure facing the KRG to democratize its political system.

Activism also led to changes in the field of gender equality and the struggle against gender-based violence. During the 1990s the Kurdish authorities remained

indifferent, at times hostile, to the plight of local activists. Yet, the 2000s marked a change. First sign was the step taken by both the divided administrations' criminalization of honour-killings, which up until then had a quasi-legal status in the Iraqi family law, which was also used by the KRG(s). Feminist activists in the diaspora joined local activists in demand for reforms. They campaigned to the PUK and KDP women's organizations. Those in turn lobbied the politburos of their respective parties to amend the law.⁷⁵

In the post-2003 period, the capability of women's rights activists to advocate their cause was enhanced. They enjoyed access to new resources, and links between local and international activists became denser. Some of these activists used their resources to bring the KRG's incompetence in protecting women from domestic violence to international public opinion. This was done, for example, by the German WADI foundation and Human Rights Watch, which published reports on the prevalence of female genital mutilation (FGM) in parts of the Kurdistan Region;⁷⁶ or a project led by diaspora feminist activist, Nazand Begikhani, about the rise in cases of honour-killings.⁷⁷ In other cases, advocates have associated government action against gender-based violence with good governance and international legitimacy. In one such initiative, UNAMI supported a research conducted by a local NGO, Asuda, on the subject of gendered-violence in the Sulaymaniyah governorate.⁷⁸ The report implicitly underlined the KRG's sovereignty by noting that it should adhere to the UN General Assembly Resolution *working towards the elimination of crimes committed in the name of honour*, according to which "states have an obligation to prevent, investigate and punish perpetrators."⁷⁹

Though publicly rejecting this criticism,⁸⁰ the KRG began taking measures toward tackling the issue. It formed a special body to monitor the enforcement of the

legislation and opened government sponsored-shelters for women at risk for the first time in 2009. And in 2011 the regional parliament criminalised FGM and forced marriage and set obstacles (without abolishing) polygamy.⁸¹ One may argue that countering gendered-violence does not fall into the definition of democracy. But beyond the cause itself, the ability of local and international activists to advocate their cause is a sign of a democratic transition.

Post-2003 advocacy also facilitated changes in the KRG's policies toward freedom of expression. Whereas new media outlets initially flourished in the region, reporters soon began to feel the KRG's wrath. Immediate victims were those who exposed alleged cases of corruption by senior officials and members of the security apparatus. Here as well, protest was transnational in nature. In one instance, when the regional court sentenced a Vienna-based Kurdish journalist to 30 years in prison for defaming the Barzani family in 2005, it was the outcry of Kurdish journalists, as well as international organizations such as Reporters without Borders (RWB), that drove the Austrian government to act for his release.⁸² Grievances on the KRG's persecution of journalists were also picked up by Amnesty International that underlined them in its 2009 report.⁸³

Although denying these accusations as well,⁸⁴ the KRG did embrace the criticism and engaged in a dialogue. Nechirvan Barzani, the KRG's Prime Minister, met with the representatives of Amnesty International – the only regional leader to do so at the time – and discussed with them about their findings.⁸⁵ The KRG also reformed its own attitude toward journalists. The first step taken by the KRG on the issue was the legislation of Law No. 24, *Press Law* in September 2007. This took place after a meeting between President Mas'ud Barzani and head of the regional journalists' syndicate.⁸⁶ According to a Freedom House report, the new legislation

gave “unprecedented freedoms” to journalists by eliminating imprisonment penalties for defamation. It was implemented rather successfully, leading to a “numerical improvement” in the general statistics.⁸⁷ And in its 2010 report, RWB reported that

The status of press freedom [in the Kurdistan Region] is better there than in neighbouring countries and provinces, mainly because of Kurdistan’s adoption, in 2007, of a protective Law of Journalism. The Kurdish intelligentsia is dynamic, and the number of its media outlets has exploded in the last few years.⁸⁸

Once again, transnational advocacy played an important role in the KRG’s decision to reform. Indications for that can be found in the KRG’s deliberation (through its official media outlets) with Human Rights Watch over the latter’s report in which it condemned the KRG for its treatment of journalists,⁸⁹ or in discussions with representatives of Western international organizations in the region, in which the KRG invoked its protection of journalists.⁹⁰

One should be careful when assessing democratization in the KRG. The many flaws in the process are visible even to sympathetic observers. The democratic transition in the KRG has been far from linear. In 2011 the region experienced something of a relapse into the Ba’thist days, when three protestors were killed in clashes with regional security forces in the city of Sulaymaniyah.⁹¹ And as RWB noted in its 2012 index of freedom of journalism, “journalists are very often the target of violence by the security forces... in Iraqi Kurdistan, *a region that had for many years offered a refuge for journalists*.”⁹² Nevertheless, even if precarious, the KRG’s democratic transition, which encompassed various aspects of democracy, is genuine. Transnational networks were involved in many of the campaigns leading to these reforms, either by conveying ideas related to the reforms, or by lobbying the

government to take action. The KRG's crisis of legitimacy and its consequential pursuit of legitimacy served such advocacy in different ways: it compelled the KRG to aspire to understand international expectations and standards of good governance; facilitated greater interaction between the KRG and the international community; and provided advocates with access to Kurdish policy-makers. Hence, democratic transition in the KRG could not have been achieved without the conditions created by its crisis of legitimacy.

Conclusion

The most noticeable characteristics of unrecognized states are the existence of domestic sovereignty; and the international community's refusal to acknowledge this. For unrecognized states this is a predicament which they strive to overcome. On the other hand, as studies of de facto states have vividly demonstrated, in most de facto states this predicament has not hindered the process of state-building, including the prospects of democratization.

The contentious status of unrecognized states has meant that most studies of democratic transitions have simply ignored them, or view democratization in such cases as implausible. Recent studies have challenged this tendency in the literature. They have demonstrated that non-recognition, or the absence of international legal sovereignty, does not hinder democratization. Building upon these studies, this paper has argued that not only does non-recognition not hinder democratization, but in fact it can facilitate democratic transitions in unrecognized states. The explanation for that lies in the crisis of legitimacy which is inherent to non-recognition. This crisis drives unrecognized to seek to legitimize their existence. This compels them to interact with

the international community; and it enables transnational advocacy networks to promote their cause and lobby the authorities.

The KRG sets an excellent example for this process. Since its birth in 1991, its leadership engaged in a pursuit of legitimacy. This has relied heavily on the KRG's earned sovereignty, and particularly its budding democratic transition. This has served various actors from both within and outside the region to join hands and collaborate for lobbying further political reforms and democratic transition. Even if the KRG's initial commitment to democratization was perhaps insincere, it eventually paved the way toward further transition.

The argument advanced here does not apply only to unrecognized states. It suggests that crises of international legitimacy, associated with international legal or Westphalian sovereignty, can serve as platform for domestic changes. It requires an actor subjected to deficiency in legitimacy – but also an international community that believes that Westphalian sovereignty can be breached in favour of supporting domestic sovereignty. That unrecognized states go through democratic transitions is because the international community advances such values. Increasing isolationist or relativist inclinations among leading members of the international community may strengthen other members' Westphalian sovereignty. However, it may weaken their domestic sovereignty, that is, if we accept the idea that democracy, in its holistic definition, can serve as the foundation for a solid domestic sovereignty.

¹ Tansey, "Democratization without a State"; Caspersen, "Separatism and Democracy"; Kolstø and Blakkisrud, "De Facto States and Democracy"

² *Crises* are "critical turning points in which the imperative to adapt is heightened by the immanent possibility of death, collapse, demise, disempowerment, or decline into irrelevance." Reus-Smit, "International Crises of legitimacy," 166-167.

- ³ Horowitz, "A Right to Secede?"
- ⁴ Tansey, "Democratization without a State," 132.
- ⁵ *Ibid.*
- ⁶ Tansey, "Does Democracy Need Sovereignty?"
- ⁷ Kolstø and Blakkisrud, "De Facto States and Democracy"
- ⁸ Kolstø and Blakkisrud, "Living with Non-recognition"; Caspersen, *Unrecognized States*. Caspersen provides one of the most comprehensive studies of unrecognized statehood, encompassing most unrecognized state.
- ⁹ Krasner, *Sovereignty*.
- ¹⁰ Tansey, "Does Democracy Need Sovereignty?" 1520.
- ¹¹ Bartmann, "Political Realities," 15-16.
- ¹² *Ibid.*; Caspersen, "Playing the Recognition Game."
- ¹⁵ For Somaliland see Tansey, "Does Democracy Need Sovereignty?" 1529; for Nagorno-Karabakh see Kolstø and Blakkisrud, "De Facto States and Democracy;" and for Nagorno-Karabakh and Abkhazia see Caspersen, "Playing the Recognition Game."
- ¹⁶ Fawn has referred to this as the "Kosovo effect." See Fawn, "The Kosovo – and Montenegro – Effect."
- ¹⁷ Robinson, "Promoting Capitalist Polyarchy."
- ¹⁸ Rhodes, "The Imperial Logic."
- ¹⁹ Caspersen, *Unrecognized States*, 89.
- ²⁰ *Ibid.*, 82.
- ²¹ *Ibid.*, 88.
- ²² Kolstø and Blakkisrud, "De Facto States and Democracy," 149.
- ²³ Caspersen, *Unrecognized States*, 77.
- ²⁴ Caspersen as well has pointed this out, stating that "The opposition could use the democratic rhetoric employed by the authorities and turn it against them." *Ibid.*, 88.
- ²⁵ Keck and Sikkink, *Activists beyond Borders*).
- ²⁶ Risse and Sikkink, "The Socialization of Human Rights," 5.
- ²⁷ Risse, Ropp and Sikkink, *The Power of Human Rights*
- ²⁸ Keck and Sikkink, *Activists beyond Borders*, 79-120.
- ²⁹ Natali, *The Kurdish Quasi-State*
- ³⁰ Rawnsley, "Selling Democracy."
- ³¹ Madsen, "The Struggle for Sovereignty," 158.
- ³² Yahuda, "The International Standing," 1320.
- ³³ Tien and Yun, "Building Democracy in Taiwan," 1146.
- ³⁴ Taiwan is the only among the four "Asian Tigers" (the others being South Korea, Singapore and Hong Kong), to be defined as *fully free* in the 2012 Freedom House rankings. See <http://www.freedomhouse.org/country/taiwan>.
- ³⁵ Hansen and Bradbury, "Somaliland," 464.
- ³⁶ Hammond, et. al, *Cash and Compassion*, 68.
- ³⁷ Bradbury, *Becoming Somaliland*, 134, 181.
- ⁴¹ Pegg, *International Society*.
- ⁴² Kolsto and Blakkisrud, "Living with Non-recognition," 506.
- ⁴³ Caspersen, *Unrecognized States*, 98.
- ⁴⁴ Natali, *The Kurds and the State*.
- ⁴⁵ Bengio, *The Kurds of Iraq*.
- ⁴⁷ Pegg, *International Society*; Geldenhuys, *Contested States*
- ⁴⁸ Lara Jakes, "AP Interview: Iraqi Kurd Leader Hints at Secession," *AP*, April 25, 2012.
- ⁴⁹ Kakai, "The Kurdish Parliament," 120-121.
- ⁵⁰ Meadowcroft, *Kurdistan Elections*, 4.
- ⁵¹ Sawt Al-Kuwayt Al-Duwali, "Talabani interviewed on Kurdistan elections," 13 June 1992, p 5; as cited in FBIS-NES, 19 June 1992, p 23.
- ⁵² Voice of Iraqi Kurdistan, September 29, 1991, as cited by BBC Summary of World Broadcasts, "Iraq Mas'ud Barzani Briefs Kurds on Negotiations with Government," ME/1192/A/1
- ⁵⁴ Bengio, *The Kurds of Iraq*, 231-244.
- ⁵⁵ Natali, *The Kurdish Quasi-State*.
- ⁵⁶ *Ibid.*, 53.
- ⁵⁷ Chapman, *Security Forces*.
- ⁵⁸ Lundgren, *The Unwelcome Neighbour*.

- ⁵⁹ One example was an attempt on the life of the Kurdish mayor of Kirkuk. Olsen, *The Goat and the Butcher* 28-29.
- ⁶⁰ Lawrence, *Invisible Nation*, 203-218.
- ⁶¹ The nomination of Barzani's political rival, Talabani, to the presidency of Iraq eased Barzani's nomination.
- ⁶² KRG, *Kurdistan: the Other Iraq*, 2. <http://www.theotheriraq.com/images/chapter2.pdf>
- ⁶³ See for example: KRG UK Representation, *The status of Christians*.
- ⁶⁴ Amnesty International, *Hope and Fear*.
- ⁶⁵ Human Rights Watch (HRW), *On Vulnerable Ground*.
- ⁶⁶ And not only international NGOs – Iraqi women's rights activists also found refuge in the Kurdistan Region. Al-Ali and Pratt, *What Kind of Liberation*, 159.
- ⁶⁷ See Natai, *The Kurdish Quasi-State*, 75-102.
- ⁶⁸ Emanuelsson, "Shall We Return."
- ⁶⁹ Khayati, "From Victim Diaspora," 104-106.
- ⁷⁰ e.g., Amnesty International, "Hope and Fear;" HRW, "On Vulnerable Grounds;" and UNAMI's *Human Rights Report*.
- ⁷¹ Kurdish Institute for Elections, "Citizens and Electoral Enlightenment Campaign," October 10, 2009. Available at: <http://www.kie-ngo.org/Diryje.aspx?Jimare=16&Babet=ProjectandActivities2>
- ⁷² "Twenty Three Parliament Members Confirm the Draft Code on Organizing Public Rallies and Demonstrations," *KIE official website*, November 11, 2009. Available at: <http://www.kiengo.org/Diryje.aspx?Jimare=17&Babet=ProjectandActivities2>.
- ⁷³ Hal Ferguson, "IRI's Hal Ferguson Highlights the Role of Young People in Iraq's Democracy," *FCYI official website*, October 10, 2010. Available at: http://www.aynda.org/EN/operations/get_article.asp?language=EN&ArticleID=2483
- ⁷⁴ Qubad Talabani, "Remarks on the Elections of 25 July 2009 and Related Issues – Middle East Institute," *KRG Official Website in English* [henceforth KRG], August 13, 2009 [Italics added]. http://www.krg.org/uploads/documents/Qubad_Talabani_speech_MEI_Kurdistan_Elections_11Aug09_2009_08_13_h8m53s57.pdf
- ⁷⁵ Mojab and Gorman, "Dispersed Nationalism."
- ⁷⁶ Nicholas Birch, "Ancient Practice Still a Threat to Iraqi Women," *Washington Times*, August 22, 2005, A15; Human Rights Watch, *They Took Me*.
- ⁷⁷ Begikhani, Gil, Hague and Ibraheem, *Final Report*.
- ⁷⁸ Taysi, *Eliminating Violence against Women*.
- ⁷⁹ *Ibid*, 8-9.
- ⁸⁰ See for instance a report by the KRG's semi-official English-language daily, *The Kurdish Globe*, which suggested that the WADI inflated the FGM rates. *The Kurdish Globe*, "FGM, Once a Taboo, Now a Breached Silence," February 21, 2010. <http://www.kurdishglobe.net/displayArticle.jsp?id=154032C92C81C7BF1E24C10D20F7DB0A>
- ⁸¹ *The Kurdish Globe*, "US Representative Highlights KRG's Efforts on Women's Rights," March 31 2012.
- ⁸² Rubin, "Dissident Watch."
- ⁸³ Amnesty International, "Hope and Fear," 2009.
- ⁸⁴ KRG, "Statement in response to Amnesty International Report," April 20, 2009 <http://www.krg.org/a/d.aspx?r=223&l=12&s=02010100&a=28956&s=010000>.
- ⁸⁵ Amnesty International: "Prime Minister of Kurdistan Region of Iraq Commits to Human Rights," 23 April 2009. <http://www.amnesty.org/en/news-and-updates/good-news/prime-minister-kurdistan-region-iraq-commits-human-rights-20090423>
- ⁸⁶ *The Kurdish Globe*, "Kurdistan Government Supports Modern Press Law," December 28, 2007, cited from the Voice of Iraq report. <http://www.kurdishglobe.net/displayArticle.jsp?id=B745E6CC9591AEAC71A68B3B998568BD>
- ⁸⁷ Freedom House, "Freedom of Press 2009," Available at: http://www.freedomhouse.org/template.cfm?page=350&ana_page=372&year=2009
- ⁸⁸ RWB, *Between Freedom and Abuses*, 2.
- ⁸⁹ *The Kurdish Globe* "KRG to HRW and Amnesty: We are Pro Reform, Peace, Human Rights," June 4, 2011. <http://www.kurdishglobe.net/display-article.html?id=2C879B9D494BB8FB196EEA1FD94F18CB>
- ⁹⁰ For example, with regard to the KRG's meeting with the representative of the European Union Integrated Rule of Law Mission. KRG, "Head of the Department of Foreign Relations Discusses

Coordinative efforts with New EUJUST LEX Team,” November 22, 2011
<http://dfr.krg.org/a/d.aspx?l=12&a=41379>

⁹¹ Human Rights Watch, “Iraq: Investigate Protester Deaths,” February 17, 2011,
<http://www.hrw.org/en/news/2011/02/17/iraq-investigate-protester-deaths>.

⁹² RWB, *World Press Freedom Index*.

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